

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rita Boppana,

Complainant,

vs.

Southern California Gas Company,

Defendant.

Case 00-05-010
(Filed May 11, 2000)

And Related Matters.

Case 00-05-011
(Filed May 11, 2000)
Case 00-05-012
(Filed May 11, 2000)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
CONSOLIDATING THREE COMPLAINT CASES FOR EVIDENTIARY
HEARINGS AND SETTING HEARING AND TESTIMONY SCHEDULE**

Summary

This ruling and scoping memo describes the issues to be considered in this consolidated proceeding and sets forth the procedural schedule for their resolution. As required by Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure, this ruling affirms the proceeding category and the need for evidentiary hearings (EHs) and designates a principal hearing officer.

Numerous Prehearing Conferences (PHCs) and Public Participation Hearings (PPHs) have been held since the filing of the three complaints on May 11, 2000.

This ruling consolidates the three complaints for the EH, establishes the dates for service of testimony and reply testimony and schedules EHs for April 18 - 20, 2005, in the Commission's Hearing Room, 340 West 4th Street, Suite 500, in Los Angeles, California.

Background

On May 11, 2000, three separate complaints, Case (C.) 00-05-010, C.00-05-011 and C.00-05-012 were filed by Rita Boppana, Albert Jibilian and Christine Storey against Southern California Gas Company (SoCalGas). All three complaints raise a shared concern: is SoCalGas operating its Playa Del Rey gas storage facility in a manner that protects the health and safety of the nearby homeowners? The complaints asked the Commission to conduct an investigation to determine if the Playa Del Rey gas storage facility is venting or leaking gas, or depositing carcinogens into the air or soil in a manner that compromises the health or safety of the people in the neighboring community.

SoCalGas filed an answer denying all of the allegations.

At the time the complaints were filed, the Commission was conducting an environmental review as required by the California Environmental Quality Act (CEQA) in an application proceeding, Application 99-05-029, filed by SoCalGas seeking authorization to sell vacant lots adjacent to the Playa Del Rey gas storage facility. Some of the lots are over abandoned and capped oil and gas wells. A protest was filed to the application questioning whether the abandoned wells posed environmental, health or safety issues.

Due to the confluence of issues between the application and the complaints, hearings on the complaints were delayed until a final Environmental

Impact Report (FEIR) was issued in the application. On February 11, 2005, the FEIR was issued.

Category

This ruling confirms the Commission's preliminary determination that these three proceedings are all adjudicatory and that hearings are necessary.

Hearing

Hearings may be needed in this proceeding if the complainants believe there are still factual issues in dispute following the issuance of the FEIR. We reserve the following dates for hearings: April 18-20, 2005. When parties file testimony, they should indicate whether hearings are necessary, if so on what issues, who will be presenting testimony, and how much hearing time is anticipated to be necessary.

Scope of the Proceeding

Rita Boppana, Albert Jibilian and Christine Story asked the Commission to conduct an investigation to determine if the SoCalGas Playa Del Rey gas storage facility is venting or leaking gas or depositing carcinogens into the air or soil to the detriment of the health or safety of the neighboring community. As a component of the environmental review, a Health Risk Assessment (HRA) was prepared and issued March 2004. The results of this HRA were incorporated into the draft EIR (DEIR) issued June 4, 2004. The EIR process affords parties and the public an opportunity to comment on the draft EIR findings and recommendations. Following the issuance of the DEIR, a public hearing was held in Playa Del Rey on June 28, 2004, and numerous people voiced their comments. Following the public hearing, parties were invited to file written comments on the DEIR. Thirteen individuals, organizations and agencies submitted written comments on the DEIR.

The February 11, 2005 FEIR discusses each and every written comment and responds to the comments, including all comments related to the HRA and the findings and recommendations on Public Health and Public Safety.

We will not duplicate any issue that is covered in the EIR process in the EHs. In particular, the adequacy of the findings in the HRA, DEIR and FEIR are not part of the scope of the hearings. The scope of any EHs in this proceeding will be limited to the allegations in the complaints and the denials/defenses in the answer that have not been covered in the HRA, DEIR or FEIR.

If complainants are satisfied that the issues they raised in their respective complaints have been adequately addressed in the HRA, DEIR and FEIR, hearings will not be necessary.

In addition, if complainants feel that the passage of time since their complaints were filed has rendered the allegations moot, complainants may request that the complaints be dismissed. Any, or all, of complainants are free to request dismissal. EHs will only go forward on the complaint, or complaints, that have not been dismissed.

If a complainant, or all three complainants, wish dismissal, send a letter requesting dismissal by mail, fax or e-mail to Administrative Law Judge (ALJ) Carol A. Brown. Fax (415) 703-1723, cab@cpuc.ca.gov.

Mediation

Prior to the scheduled EHs, any, or all complainants, may ask to have the complaint mediated to see if a mediated resolution can be reached. Any party wishing to participate in the Commission's voluntary mediation program should contact ALJ Brown, and a mediation will be arranged before a trained ALJ mediator, different from ALJ Brown. Mediation is confidential and does not prejudice a party's right to proceed with litigation and hearings if a mutually

acceptable settlement is not reached. Each complainant is asked to seriously explore whether mediation might prove successful, especially in light of the passage of time, the risks and costs of litigation and the strengths and weaknesses of each sides' position.

Procedural Schedule

If the complaints are not dismissed, and/or mediation is not successful, the following schedule will apply:

March 30, 2005	Plaintiff's prepared testimony served ¹
April 11, 2005	Defendant's prepared rebuttal served
April 18 – 20, 2005	Evidentiary Hearings Commission's Hearing Room 340 West 4 th Street, Suite 500 Los Angeles, California
Date to be determined	Concurrent opening briefs filed and served
Date to be determined	Concurrent reply briefs filed and served
Approx. 30 days later	Draft decision placed on Commission agenda

Presiding Hearing Officer

This ruling designates ALJ Carol Brown as the presiding hearing officer in this proceeding.

¹ Testimony is served on parties to the proceeding as well as on the Assigned Commissioner and the ALJ. Testimony is not filed with the Commission's Docket Office.

Service List

The official service list is now on the Commission's web page, www.cpuc.ca.gov. Parties should confirm that the information on the service list is correct, and serve notice of any errors on the Commission's Process Office, the service list, and the judge. Parties should frequently check the official service list to ensure that they are operating with the most current list. Parties shall e-mail courtesy copies of all served and filed documents on the entire service list, including those appearing on the list as "State Service" and "Information Only."

Hearing Preparation

Hearings are scheduled for April 18 - 20, 2005. On or before Monday, April 4, 2005, Complainants are directed to organize a conference call with SoCalGas and the ALJ to discuss whether there are any issues in dispute that require or could benefit from EHs. If the ALJ determines that the EHs are to go forward the conference call attendees are then to identify the principal issues on which the hearings will focus, key disputes, and any stipulations or settlements.

If the EHs are to go forward, parties should also use the meet-and-confer to discuss witness schedules, time estimates from each party for the cross-examination of witnesses, scheduling concerns, and the order of cross-examination. The first morning of hearings on April 18, 2005, will begin at 10:00 a.m., but the time may be adjusted on subsequent days according to the participants' needs.

Before post-hearing briefs are filed, the parties must agree on an outline, and use that outline for the briefs and reply briefs.

Finally, the parties should comply with the Hearing Room Ground Rules set forth in Appendix A hereto.

Rules Governing *Ex Parte* Communications

This proceeding is subject to Pub. Util. Code § 1701.2(b) and Rule 7(b) of the Commission's Rules of Practice and Procedure, which means that *ex parte* communications are prohibited in adjudicatory proceedings.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is set forth herein.
3. This ruling confirms that the three proceedings are all adjudicatory.
4. The three separate complaint proceedings, Case (C.) 00-05-010, C.00-05-011 and C.00-05-012 are consolidated for the Evidentiary Hearings.
5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7(b) of the Commission's Rules of Practice and Procedure.
6. Administrative Law Judge Carol Brown is the presiding hearing officer in this proceeding.
7. Parties shall follow the service list rules as set forth herein
8. Parties shall comply with the Hearing Room Ground Rules set forth in Appendix "A" hereto.

Dated March 7, 2005, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

APPENDIX A

Hearing Room Ground Rules

1. All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony shall not be filed with the Commission's Docket Office.
2. Each party sponsoring an exhibit should, in the hearing room, provide two copies to the ALJ and one to the court reporter, and have copies available for distribution to parties present in the hearing room. If the exhibit is testimony that has already been served, the ALJ only needs one copy. The upper right hand corner of the exhibit cover sheet should be blank for the ALJ's exhibit stamp. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the exhibit. Parties should pre-mark exhibits when feasible.
3. As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction.
4. Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.
5. Individual chapters of large, bound volumes of testimony may be marked with separate exhibit numbers, as convenient.
6. Partial documents or excerpts from documents must include a title page or first page from the source document; excerpts from lengthy documents should include a table of contents page covering the excerpted material.

7. Motions to strike prepared testimony must be made at least two working days before the witness appears, to allow the ALJ time for review of the arguments and relevant testimony.
8. Notices, compliance filings, or other documents may be marked as reference items. They need not be served on all parties. Items will be marked using letters, not numbers.
9. Food and beverages are allowed IF you dispose of containers and napkins properly.

(END OF APPENDIX A)

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner Consolidating Three Complaint Cases for Evidentiary Hearings and Setting Hearing and Testimony Schedule on all parties of record in this proceeding or their attorneys of record.

Dated March 7, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.